



Minutes

Supreme Court's Advisory Committee on the Utah Rules of Appellate Procedure

Administrative Office of the Courts
450 South State Street
Salt Lake City, Utah 84114

In Person and by WebEx Videoconference
Thursday, April 6, 2023
12:00 pm to 1:30 pm

PRESENT

Emily Adams
Christopher Ballard—Chair
Troy Booher—
Emeritus Member
Jacqueline Carlton—Guest
Judge Michele
Christiansen Forster
Lisa Collins
Carol Funk
Amber Griffith—Staff

Michael Judd—Recording
Secretary
Alexandra Mareschal—
Guest
Judge Gregory Orme
Michelle Quist
Clark Sabey
Nathalie Skibine—
Vice Chair
Scarlet Smith
Mary Westby

EXCUSED

Patrick Burt
Tyler Green
Stanford Purser
Nick Stiles—Staff

1. Action: **Chris Ballard**
Approval of March 2023 Minutes

The committee reviewed the March 2023 minutes. Chris Ballard recommended changes to Sections 4 and 5, and the committee approved those changes after reviewing the proposed changes on the screen.

After that review, Mary Westby moved to approve the March 2023 minutes. Nathalie Skibine seconded that motion, and it passed without objection by

unanimous consent.

2. Action: Mary Westby
Rule 57 Lisa Collins

Mary Westby provided the committee with an update on progress towards an amended Rule 57. After hearing about a measure of resistance from the juvenile-court clerks about the past proposal, the committee opted to return to the drawing board, beginning with a proposed amendment that says what the record *is*, rather than what it *is not*.

The committee noted that a social file contains deeply personal information and that it is not routine for district court to see those materials along the way. Courts *do*, however, often see summaries, which means that, in best practice, an appellate court would expect to see those types of summaries on appeal, so long as they get incorporated in the record on appeal—or included through supplementation. Alexandra Mareschal spoke to describe the problems created on appeal when important material is missing from the appellate file.

Lisa Collins offered to speak with court administrators about the possibility that in a juvenile appeal, appellate counsel would be automatically added as a party with access to the juvenile docket, through CARE.

Following that discussion, Ms. Westby moved to table to seek additional information from juvenile court clerks and court administrators. Carol Funk seconded that motion, and it passed without objection by unanimous consent.

3. Action: Chris Ballard
Rule 8

Mr. Ballard notes that the committee did substantial work on Rule 8 several years ago. In doing so, the committee included references to Rule 62 of the Utah Rules of Civil Procedure, which has since been amended, making Rule 8's cross-references inaccurate (or at risk of being inaccurate after future amendments). This proposed change would correct that inaccuracy and guard against future inaccuracies of the same type.

Following the committee's brief discussion, Judge Gregory Orme moved to adopt the proposed changes. Ms. Westby seconded that motion, and it passed without objection by unanimous consent. Clark Sabey suggests that this amendment be adopted

immediately, and the committee agreed.

**4. Action: Chris Ballard
HB 317**

Ms. Westby spoke to suggest that there is no need for a rule to address the issues raised by HB 317, as the Court of Appeals has an internal process to expedite the appeals described in the bill. Ms. Westby suggested that the committee pause to see how that existing process works before it dives into crafting another rule to address the expedited appeal described in Utah Code § 77-20-209.

The committee resolved to follow up on this question in six months. One option is to address this issue through a modified briefing order, and in that case the committee will provide notice to stakeholders of what that briefing order may look like.

**5. Discussion: Chris Ballard
Old/New Business**

The committee received an update regarding Rule 50. Issues regarding remote hearings will be discussed at the next Court of Appeals judges' meeting, slated for April 19.

Scarlet Smith noted that Rule 4(b)(2) is causing a lot of work for appellate practitioners, including through notices of appeal being filed early. Mr. Ballard invited Ms. Smith to prepare a written proposal that may address those issues.

The committee's next meeting will use a hybrid in-person/remote attendance format, and Judge Orme suggested the committee make that hybrid approach the standing practice.

6. Adjourn

Following the business described above, Michelle Quist moved to adjourn, and Judge Orme seconded. The committee adjourned. The committee's next meeting will take place on May 4, 2023.

